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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/659,235	09/11/2000	William O'Leary	100.136US01	4655
34206	7590	10/19/2004	EXAMINER	
FOGG AND ASSOCIATES, LLC P.O. BOX 581339 MINNEAPOLIS, MN 55458-1339			ART UNIT	PAPER NUMBER

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliance  
With 37 CFR 1.192(c)**

**Application No.**

09/659,235

**Applicant(s)**

O'LEARY, WILLIAM

**Examiner**

Dennis M. Butler

**Art Unit**

2115

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

The Appeal Brief filed on 26 July 2004 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPLICATE a complete new brief in compliance with 37 CFR 1.192(c) within the longest of any of the following three **TIME PERIODS**: (1) **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer; (2) **TWO MONTHS** from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENSIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. ☒ The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. ☐ The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. ☐ The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. ☒ A single ground of rejection has been applied to two or more claims in this application, and
  - (a) ☐ the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
  - (b) ☒ the brief includes the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. ☐ The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. ☒ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. ☒ Other (including any explanation in support of the above items):

See the attached sheet.

*Dennis M. Butler*

Dennis M. Butler  
Primary Examiner  
Art Unit: 2115

**NOTIFICATION OF NON-COMPLIANCE WITH THE REQUIREMENTS OF 37 CFR**

**1.192(c)**

1. The brief includes a statement that claims 1-66 do not stand or fall together, but fails to present reasons in support thereof as required under 37 CFR 1.192(c)(7).

MPEP § 1206.

The brief includes a statement that claims 26, 31, 43 and 64-66 stand or fall on their own merits. Appellant has presented arguments directed to claim 26 and states that claims 31 and 43 include similar limitations as discussed above with respect to claim 26 and are thus also allowable for the same reasons on page 18 of the brief. Appellant's statement indicates that these claims should be grouped together. Appellant has failed to provide any statement or support as to why claims 64-66 stand or fall on their own merits. Appellant has failed to present reasons in support of claims 31, 43 and 64-66 standing or falling on their own merits as required under 37 CFR 1.192(c)(7). In addition, the examiner has indicated that claims 25, 32, 42 and 45-63 are allowable in the previous office action. Therefore, it is unclear why appellant states that these claims are part of the appeal and that they stand or fall on their own merits.

2. The brief does not contain, for each rejection under 35 U.S.C. 102, an argument which specifies the errors in the rejection and why the rejected claims are patentable under 35 U.S.C. 102, including any specific limitations in the rejected claims which are not described in the prior art relied upon in the rejection.

The brief fails to address the rejection of claims 64-66 under 35 U.S.C. 102.

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3. The brief does not contain a statement of the status of all the claims, pending or canceled, and identify the claims appealed as required by 37 CFR 1.192(c)(3).

Appellant's statement of the status of the claims does not correctly identify the appealed claims. Appellant states that claims 1-66 are the subject of this appeal. However, the examiner has indicated that claims 25, 32, 42 and 45-63 are allowable in the previous office action. Therefore, these claims should not be part of the appeal.

4. The brief does not contain a correct copy of the claims involved in the appeal in the Appendix.

The Appendix includes a copy of claims 1-66. Since claims 25, 32, 42 and 45-63 are allowable, they are not on appeal and should not be included in the Appendix.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis M. Butler whose telephone number is 703-305-9663.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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*Dennis M. Butler*

Dennis M. Butler  
Primary Examiner  
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